

NEWPORT BEACH PLANNING COMMISSION MINUTES
Council Chambers – 3300 Newport Boulevard
Thursday, September 6, 2012
REGULAR MEETING
6:30 p.m.

I. **CALL TO ORDER** - The meeting was called to order at 6:32 p.m.

II. **PLEDGE OF ALLEGIANCE** – Commissioner Brown

III. **ROLL CALL**

PRESENT: Ameri, Brown, Hillgren, Kramer, Myers, Toerge, Tucker

ABSENT (Excused): None

Staff Present: Kimberly Brandt, Community Development Director; Brenda Wisneski, Deputy Community Development Director; Leonie Mulvihill, Assistant City Attorney; Tony Brine, City Traffic Engineer; Melinda Whelan, Assistant Planner; Rosalinh Ung, Associate Planner

IV. **PUBLIC COMMENTS**

None

V. **REQUEST FOR CONTINUANCES**

Community Development Director Kimberly Brandt reported that the applicant concerning the Bristol Chevron Service Station (Item No. 2) has requested a request to continue the item to the Planning Commission meeting of September 20, 2012.

Motion made by Commissioner Tucker and seconded by Vice Chair Hillgren, and carried 7 – 0, to continue Item No. 2 until the Planning Commission meeting of September 20, 2012.

AYES: Ameri, Brown, Hillgren, Kramer, Myers, Toerge and Tucker

NOES: None

ABSTENTIONS: None

ABSENT (Excused): None

VI. **CONSENT ITEMS**

ITEM NO. 1 Minutes of August 23, 2012

Recommended Action: Approve and file

Vice Chair Hillgren commented on changes to the minutes regarding Public Hearing Item No. 3 regarding questions by Commissioner Myers relative to restroom facilities and his own comments regarding square footage to both interior and exterior spaces. He indicated that the meeting was adjourned before 7:00 p.m.

Chair Toerge noted that he was absent at that meeting and that it would be appropriate for Vice Chair Hillgren to sign off on the minutes.

Interested parties were invited to address the Commission on this item.

Jim Mosher noted minor typographical errors.

There being no others wishing to address the Commission, Chair Toerge closed public comments for this item.

Motion made by Vice Chair Hillgren and seconded by Commissioner Myers, and carried 6 – 1, to approve the minutes of the Planning Commission meeting of August 23, 2012, as amended.

AYES: Ameri, Brown, Hillgren, Kramer, Myers and Tucker

NOES: None

ABSTENTIONS: Toerge

ABSENT (Excused): None

VII. PUBLIC HEARING ITEMS

ITEM NO. 2 Bristol Chevron Service Station (PA2012-073)

Site Location: 2121 Bristol Street

This item was acted upon under Requests for Continuance, above and was continued to the Planning Commission meeting of September 20, 2012.

ITEM NO. 3 441 Old Newport Medical Office Building (PA2011-056)

Site Location: 441 Old Newport Boulevard

Assistant Planner Melinda Whelan presented details of the report through a PowerPoint presentation addressing details of the request, existing conditions, parking requirements, location, off-street parking to be provided, review of an existing parking study, parking demand, valet service, review and approval of access and circulation of on and off-site parking by the City Traffic Engineer and Conditions of Approval to ensure that 51 parking spaces are adequate and that parking regulations and access of the off-site lot and valet operation is sufficient for the proposed use. She addressed the site plan, CEQA exemption and recommendations.

Commissioner Tucker commented on the availability of additional off-site spaces, Reciprocal Parking Easement Agreement (REA) and Zoning Code provisions and whether the additional off-site parking will be permanent and marked for the use it is intended to serve. He expressed concerns regarding expiration of the agreement noting it is not permanent. He referenced letters received from two medical groups that call into question the methodology used to determine that the proposed parking was acceptable and felt that the parking situation merits further review.

Chair Toerge stated that the existing available parking is inadequate for office standards.

Commissioner Myers agreed that the methodology seems light and referenced a letter regarding significant vacancies.

Commissioner Kramer inquired regarding the valet service and square footage discrepancies and felt that additional information is needed.

Assistant City Attorney Mulvihill reported that the City does not interpret private agreements amongst property owners but that staff has recommended an off-site parking agreement and that it is up to the Commission to determine whether the agreement satisfies the requirements for the off-site parking agreement. She agreed there is lack of clarity regarding the REA. Her office has advised staff that if

the Commission recognizes the off-site parking arrangement, it is up to the applicant to ensure that it has the required legal ability to satisfy the Conditions of Approval.

Chair Toerge invited the applicant to address the Commission.

Peter Conrad, Construction Manager, reported that the square footage is 11,540 square feet and addressed location of valet parking. He stated that the site does not require a 5 to 1 ratio and that at 4.5 to 1 the facility complies with the parking requirements.

Vice Chair Hillgren inquired regarding the facility's lower parking requirements compared to other medical uses.

Mr. Conrad addressed the types of medical uses and noted that the parking requirements are based on the City's findings.

Interested parties were invited to address the Commission on this item.

Dr. Richard Haskell, owner of similar office buildings on the street, provided a brief history of the site, addressed parking requirements, developing mixed uses on their site and the City's requirement of keeping the parking at the same ratio. He stated that the parking studies were done at non-peak hours and noted that 4 to 1 or 5 to 1 ratios are not adequate and that only seven off-street parking spots are available. Mr. Haskell felt that there is something that needs to be done, that they were not given any allowances and that he follows the rules and that others should as well.

Dan Purcell spoke in support of Dr. Haskell's comments.

Jim Mosher indicated that the parking agreement indicates parking in the rear and shows a discrepancy between the plan and the actual agreement. He opined that the Commission should plan for a successful project with enough parking to accommodate it.

Dr. Raney noted that the essential issue relates to potential parking and that at full capacity, it is difficult to find parking. He felt that the rules should apply to all. He expressed concerns regarding additional clutter with the added parking.

Dr. Levin stated agreement with Dr. Haskell and noted problems with meeting parking requirements for the subject building.

Catherine Cardoza reported that she works with Dr. Raney and addressed a packet submitted to staff today regarding the valet parking proposal. She expressed concerns regarding overflow parking on their lot and addressed potential problems with the easement agreement.

Peter Conrad reported that this is an existing building and that square footage is not being added. He noted that there will be valet parking, which will be just as fast as self parking.

John Bral stated that they have first right of refusal to buy the property and that with restrictions on parking, no one else would buy it. He stated that the square footage has a load factor of 20% and that the actual occupancy has not changed.

Commissioner Kramer inquired regarding the load factor and asked regarding the existing square footage.

Mr. Bral indicated that the square footage is 11,400 square feet and addressed the occupancy and load factors.

It was noted that single-story retail parking is based on the net rentable space.

Chair Toerge noted that rent is paid on common areas as well.

There being no others wishing to address the Commission, Chair Toerge closed public comments for this item.

Discussion followed regarding the actual square footage used to establish the parking ratio.

Chair Toerge stated that he is a proponent of the "permanently available" issue and that the non-exclusive element of the parking arrangement is concerning. He felt that the parking arrangement is not suitable for off-site parking at this time and addressed possible uses as unknown.

Commissioner Ameri commented on the easement noting that it is an encumbrance on the property. He addressed discrepancies in the square footage and wondered whether the traffic study is valid. He felt that a six-month review would be beneficial but felt that there are too many unknowns.

Commissioner Kramer stated that he disagrees with the findings of staff, that the parking study is not sufficient and expressed concerns with the valet/reciprocal agreement. He felt that there are too many inconsistencies.

Motion made by Commissioner Kramer and seconded by Chair Toerge, and carried 7 – 0, to deny the application as based on the findings presented and subsequent discussion.

Vice Chair Hillgren encouraged the applicant to advance the project and noted there is no evidence as to why the Commission should relax parking standards. He felt it could be resolved with a plausible parking program but that it does not exist at this time. He wondered if there is a process to allow the applicant to rethink the project.

Commissioner Ameri noted that the process would start all over again but that currently, there are a lot of loose ends. He suggested that the applicant request a continuance.

Chair Toerge reported that the applicant has the option to appeal the Planning Commission's decision to Council but expressed concerns regarding potential division of the use not supporting proper parking requirements. He added that another parking arrangement would be needed, that meets the City's code.

Commissioner Tucker stated agreement with Commissioner Kramer's comments and noted that the findings are not valid.

A call for the vote resulted as follows:

AYES:	Ameri, Brown, Hillgren, Kramer, Myers, Toerge and Tucker
NOES:	None
ABSTENTIONS:	None
ABSENT (Excused):	None

ITEM NO. 4 Evensen Residence (PA2012-089)
Site Location: 3225 Ocean Boulevard

Associate Planner Rosalinh Ung presented details of the report addressing the request for a variance to allow the construction of a new 3-level, single-family residential dwelling to encroach 10 feet into the required 10-foot front yard setback at the lower level which would not be visible from Ocean Boulevard. She addressed location, surrounding properties, elevations and presented a brief background of the property. She made a correction to the square footage noting that the square footage is 7,515 and addressed denial of the project by the Coastal Commission because of the encroachments. She stated that the applicant redesigned the project and noted that the existing residence would be demolished with a new residence built in its place and presented details of the new development. She addressed the site plan, new three-car garage, reconstruction of the existing stairways and a funicular.

Ms. Ung addressed the area of encroachment at lower level of the new residence, floor plans, staff determination that the encroachment would not impact public views and would not affect the flow of air and/or light to adjoining properties. She noted that the project is categorically exempt from CEQA and presented recommendations. She reported that if the project is approved by the Planning Commission, it could proceed to the Coastal Commission for consideration.

Interested parties were invited to address the Commission on this item. There was no response and the public comment portion of this item was closed.

Motion made by Chair Toerge and seconded by Commissioner Kramer, and carried 7 – 0, to approve Resolution No. 1891, approving Variance No. VA2012-003.

AYES: Ameri, Brown, Hillgren, Kramer, Myers, Toerge and Tucker
NOES: None
ABSTENTIONS: None
ABSENT (Excused): None

Commissioner Tucker commented on the possibility of an easier process than a variance for review of underground encroachments.

VIII. STAFF AND COMMISSIONER ITEMS

ITEM NO. 4 MOTION FOR RECONSIDERATION

None

ITEM NO. 5 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT

Ms. Brandt reported that the Draft Environmental Impact Report is almost ready to be released for the uptown Newport project. She reported that a study session will be scheduled with the Planning Commission during the forty-five day review to go over the project and the major findings of the EIR. She reported that staff has tentatively scheduled the matter for October 4, 2012 at 4:00 p.m.

She reported that a Planning Official's Forum is planned for October 11, 2012 to be held at the Richard M. Nixon Library in Yorba Linda and is being sponsored by the Planning Director's Association of Orange County. She asked that Commissioners let her know if they are planning to attend.

ITEM NO. 6 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT.

None

ITEM NO. 7 REQUESTS FOR EXCUSED ABSENCES

Commissioner Tucker indicated that he will be absent for the Planning Commission meeting of October 18, 2012.

Chair Toerge expressed his appreciation to staff and colleagues for their get-well wishes.

IX. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 7:36 p.m.

The agenda for the Regular Meeting was posted on August 31, 2012, at 3:15 p.m. on the City Hall Bulletin Board located outside of the City of Newport Beach Administration Building.

Michael Toerge, Chairman

Fred Ameri, Secretary

ADDITIONAL
MATERIALS
RECEIVED

To: Planning_Commissioners
Subject: Additional Materials Received for Item 1b

1b: Commissioner Tucker comments to Minutes of September 6, 2012

From: Larry Tucker [<mailto:tucker@gtpcenters.com>]

Sent: Thursday, September 20, 2012 2:22 PM

To: Garciamay, Ruby

Subject: Minutes of Regular Meeting of Sept. 6

Hi Ruby,

I have one change to Agenda Item No. 3. The last clause before the call for the vote should read...."and noted the required findings cannot be made."

Thanks.

Larry Tucker

To: Planning_Commissioners
Subject: Additional Materials Received

Additional Materials Received
Planning Commission September 20, 2012

ITEM NO. 1.b: Minutes of September 6, 2012

ITEM NO. 2: Bristol Chevron Service Station (PA2012-073)

ITEM NO. 3 Davidson-Took Variance (PA2012-108)

-----Original Message-----

From: Wisneski, Brenda
Sent: Wednesday, September 19, 2012 3:55 PM
To: Whelan, Melinda; Murillo, Jaime; Ramirez, Gregg; Garciamay, Ruby
Cc: Brandt, Kim
Subject: FW: Written comments on September 20, 2012 Planning Commission agenda items

Mosher comments below for review and distribution.

-----Original Message-----

From: Houston, Rob
Sent: Wednesday, September 19, 2012 3:44 PM
To: Wisneski, Brenda; Brandt, Kim
Subject: FW: Written comments on September 20, 2012 Planning Commission agenda items

-----Original Message-----

From: Jim Mosher [mailto:jimmosher@yahoo.com]
Sent: Wednesday, September 19, 2012 3:42 PM
To: Houston, Rob
Subject: Written comments on September 20, 2012 Planning Commission agenda items

In reviewing the staff reports for the September 20, 2012 Planning Commission meeting, I have the following comments and possible corrections:

ITEM NO. 1b MINUTES OF SEPTEMBER 6, 2012

On page 5 of 6, under "ITEM NO. 5 COMMUNITY DEVELOPMENT DIRECTOR'S REPORT": "uptown Newport project" should be "Uptown Newport project".

Item 2 (Bristol Chevron Service Station (PA2012-073))

General comments: